



**MONTANA  
FARM BUREAU  
FEDERATION**

502 S. 19<sup>th</sup> Ave. Ste 104  
Bozeman, MT 59718

January 30, 2017

Senator Steve Daines  
320 Hart Senate Office Building  
Washington D.C. 20510

Senator Daines:

I am attaching a Facebook post from the Montana Public Lands and Water Access (PLWA) organization where District Ranger Alex Sienkiewicz has stated; "Never ask permission to cross private land when accessing National Forest Service land through traditional routes shown on Forest Service maps." It is the assumption of the land owners in the Crazy Mountains as well as by the Montana Farm Bureau that this to gain access routes by prescriptive easement. According to Forest Service maps currently available online, there is only one access to the east side of the Crazies, Big Timber Canyon so the only traditional route would be through that access point. This brings up a couple of very disturbing questions for the landowners surrounding the Crazy Mountains as well as private property owners in other areas that border National Forest.

- Is it now the policy of the National Forest Service to abandon negotiating access to Forest Service property and proceed to encouraging trespassing in order to gain prescriptive easements?
- Does Mr. Sienkiewicz statement reflect the policy of the U.S. Forest Service?
- Is it proper for Mr. Sienkiewicz to post this kind of statement on a private land access organization's website using his official title and authority?

This issue was brought to the attention of Region 1 Forester Leanne Marten at a recent Montana Outfitters and Guides Association meeting where she wasn't willing to commit an answer to the questions above.

Senator, could you please investigate whether the Forest Service and Ranger Sienkiewicz acted appropriately in regards to the Facebook post and what recourse the private property owners in the Crazy Mountains have in stopping what we see as a broad over-reach of the District Ranger's authority and if indeed it is Forest Service policy to encourage trespass to gain prescriptive easements.

This kind of action does little to promote landowner/sportsman relations and in the end will do nothing to open up increased access to public lands.

Sincerely

John Youngberg  
Executive Vice President

CC: MFBF Board  
Sweet Grass County Farm Bureau

**From:** Erickson, Mary C -FS  
**To:** [spenser\\_merwin@daines.senate.gov](mailto:spenser_merwin@daines.senate.gov)  
**Subject:** Re: Crazy Mountains  
**Date:** Tuesday, April 18, 2017 7:48:50 PM

Hi Spenser. Thanks for the note.

I would love to visit. I'm at regional meetings in Missoula through Thursday afternoon. Tomorrow is a fire meeting without many breaks. By any chance, would first thing Thursday morning or during lunch hour on Thursday work for you?

There are some other conversations beginning that may you might be interested in.

A water rights attorney, Colleen Coyle, from Bozeman was contacted by the Crazy Mountain Stockgrowers is convene a small group, including a landowner, representative from the Stockgrowers, a pro-access/recreation based business person from Livingston, a FWP Game Commissioner, the RMEF access lead, and Forest Service (me at this point) to begin a conversation to explore if there's a different way to think about interests and seek common ground.

I'm not sure where that conversation will go but I thought it was a good first step. I think our first meeting may be in Big Timber next Monday.

Then, set up separately, there's a meeting with landowners and the Forest Service and respective attorneys to talk about Trail 115 on the southeast side of the Crazies.

Looking forward to the chance to hear more about what you're hearing. Helps me think ahead to possible solutions.

Thanks,

Mary

Sent from my iPad

On Apr 18, 2017, at 2:06 PM, Merwin, Spenser (Daines) <[Spenser\\_Merwin@daines.senate.gov](mailto:Spenser_Merwin@daines.senate.gov)> wrote:

Hi Mary!

Hope all is well with you and that you had a nice Easter weekend! I wanted to reach out to you and see if you have some time this week for a call to discuss the Crazy Mountain access issues. Our office was requested to host a meeting in the area last week and I wanted to update you before too much time passes. I told Angela at the RO of the meeting a head of time and informed her that I was looking for access policies/guidelines that I could pass along to the stakeholders in the area to kick off the process. I think it would be very valuable to recap with you before any of them reach back out to our office.

I told Angela late last week that I'd be happy to meet with you and Alex as it's not my

intent to go over anyone's head! If there is a time this week that we could connect please let me know.

Thanks!

-Spenser

Spenser Merwin

**Director of Coalitions and Outreach**

Senator Steve Daines (R-MT)

218 E Front St, Suite 103

Missoula, MT 59802

*Email:* [Spenser.Merwin@daines.senate.gov](mailto:Spenser.Merwin@daines.senate.gov)

O: (406) 549-8198

C: (406) 540-3385

**From:** [Merwin, Spenser \(Daines\)](#)  
**To:** [Erickson, Mary C -FS](#)  
**Subject:** Re: Access Meeting  
**Date:** Thursday, April 27, 2017 9:21:26 PM

Yea that would be great! Interested in just trying to provide an opportunity to the folks that reached out to us, while also understanding many landowners probably overlap between stock growers and farm bureau. We're definitely interested in playing whatever role would be helpful

Sent from my iPhone

On Apr 27, 2017, at 8:16 PM, Erickson, Mary C -FS <[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)> wrote:

Hi Spenser. It was a little unclear to me at the time how the other landowners had been invited to Monday nights meeting.

However, I think I got off a little easier than you did on your meeting a couple weeks ago. Everyone was very respectful, no one called out or offered up complaints about any specific Forest Service employees.

At the end of the meeting, there was a short discussion about who should attend future meetings and not wanting the group to get much larger. I had to leave to pick up my daughter so I didn't hear the final discussion.

Today, I saw an email from Colleen Coyle, the attorney who is serving as the neutral mediator for the group. She did say that she was going to set more ground rules for inviting additional participants.

I could share her contact information with you or reach out to her to see about having a member from the Farm Bureau and perhaps a representative from the Senators office?

Thoughts?

Sent from my iPad

On Apr 25, 2017, at 9:25 AM, Merwin, Spenser (Daines) <[Spenser\\_Merwin@daines.senate.gov](mailto:Spenser_Merwin@daines.senate.gov)> wrote:

Glad to hear the recap. I too am surprised to hear that landowners would join the meeting given your conversations with stakeholders. I suspect you ended up having the same meeting that I did over the phone a couple weeks ago!

As for May 8<sup>th</sup>, I'd like to try and connect the Farm Bureau to that meeting. It might be best if we could keep it to those representatives?

And would it be helpful if one of our regional staff attended?

**From:** Erickson, Mary C -FS [<mailto:mcerickson@fs.fed.us>]  
**Sent:** Tuesday, April 25, 2017 9:16 AM  
**To:** Merwin, Spenser (Daines) <[Spenser\\_Merwin@daines.senate.gov](mailto:Spenser_Merwin@daines.senate.gov)>  
**Subject:** RE: Access Meeting

Hi Spenser. I was just in the process of sending you a short note.

The meeting was last night in Big Timber. I was a little surprised when instead of the 5-6 people that had been on the "invited" list – there were about 20 people. This included other landowners invited by the Stockgrowers – and one of their attorneys. Overall, the initial discussion seemed positive. Everyone agreed that this wasn't the time for an open public forum on the topic – too likely to turn adversarial and not be helpful to anyone.

Group agreed to meet again in a couple weeks (May 8<sup>th</sup>). Also to consider whether there are some interests or key folks who should be invited – recognizing that the bigger this discussion group gets, the more unwieldy.

**Mary C Erickson**  
**Forest Supervisor**  
**Forest Service**  
**Custer Gallatin National Forest**  
**p: 406-587-6949**  
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**[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)**  
10 East Babcock  
Bozeman, MT 59715  
**[www.fs.fed.us](http://www.fs.fed.us)**  
**Caring for the land and serving people**

**From:** Merwin, Spenser (Daines)  
[[mailto:Spenser\\_Merwin@daines.senate.gov](mailto:Spenser_Merwin@daines.senate.gov)]  
**Sent:** Tuesday, April 25, 2017 9:08 AM  
**To:** Erickson, Mary C -FS <[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)>  
**Subject:** Access Meeting

We've reached out to Farm Bureau first thing this week and I have yet to hear back. Has there been any further discussion on your end? I wasn't sure if your meeting was yesterday or if another time this week.

Spenser Merwin

**Director of Coalitions and Outreach**  
Senator Steve Daines (R-MT)  
218 E Front St, Suite 103  
Missoula, MT 59802  
Email: [Spenser\\_Merwin@daines.senate.gov](mailto:Spenser_Merwin@daines.senate.gov)  
O: (406) 549-8198  
C: (406) 540-3385

**From:** [Merwin, Spenser \(Daines\)](#)  
**To:** [Erickson, Mary C -FS](#)  
**Cc:** [Harrington, Angela - FS](#)  
**Subject:** Letter regarding access issues  
**Date:** Friday, May 26, 2017 4:24:52 PM  
**Attachments:** [Sen. Daines Letter to USFS Re. Crazy Mountains Access.pdf](#)  
[ATT00001.txt](#)

Hi Mary!

Hope you have a nice weekend planned! I wanted to reach out to you and let you know the Senator penned a letter requesting information on access policy in light of the continued discussions occurring in the Crazies. We understand there are specific issues dating way back on this portion of the forest, and this letter aims to better understand the agency guidelines (regardless of region, forest, etc) as it relates to disputed access points. I've attached the letter here and wanted to ensure you saw it from us even though we're requesting information from the Washington office. The letter referenced herein is the Farm Bureau letter the region received earlier this year.

Let me know if you have any questions and hope you have a good weekend!

STEVE DAINES  
MONTANA

320 HARRI SENSEN OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-2651

# United States Senate

COMMITTEES  
AGRICULTURE, NUTRITION AND FORESTRY  
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INDIAN AFFAIRS

May 26, 2017

The Honorable Thomas Tidwell  
Chief  
United States Forest Service  
201 14th Street, SW  
Washington, DC 20024

Dear Chief Tidwell,

I am writing today to request information regarding Forest Service policy for disputed access points near the Crazy Mountains in the Custer Gallatin National Forest. One of the important roles of the U.S. Forest Service (USFS) is to work with local stakeholders to facilitate access to public lands for recreational, agricultural, and economic benefit, while also requiring a balance for equally important ecological and environmental values. While I greatly appreciate the important work the USFS does to achieve access to public land for all of us, I am curious as to the specific policy or guidelines in place within the agency to achieve such access.

As a fifth generation Montanan and avid sportsman, I strongly believe that we must prioritize increasing access to public land, especially as nearly 2 million acres of public land are inaccessible in our state. In facilitating access, I believe it is critically important to protect private property rights and work with willing landowners. That is why I am a staunch advocate in Congress of vital programs like the Land and Water Conservation Fund that help facilitate access to public land for the many different uses Montanans treasure through work with willing landowners.

In Montana, where land is divided nearly equally between federal, state, and private ownership, access is a critical issue for all public land users, and the “checkerboard” nature of ownership presents unique challenges for local landowners, the general public, and the agency. There are various ways to achieve access, such as negotiating road or trail routes, land swaps, acquisitions, or invoking judicial action. However, we must be careful to avoid unintended consequences on landowners and on future management decisions.

As noted in the attached, the perceived directive coming from the USFS seems to promote controversy and aggressive action rather than the collaborative approach we all strive to achieve as public servants.

I am concerned that a lack of clarity on how to manage disputed access points presents problems for both agency personnel and landowners, which ultimately hurts not only local stakeholders, but also the general public.

For reasons noted above, I respectfully request a response to the following questions:

- 1) What are the statutory and regulatory guidelines agency personnel must follow when attempting to resolve private property disputes with local landowners? What local discretion is permitted?
- 2) If an access point is disputed, what are USFS management guidelines for continued engagement with landowners and the public?
- 3) Is the attached message a proper reflection of USFS policy concerning unresolved access points with private landowners?
- 4) What affect, and to what extent, does state law have on management guidelines related to private property disputes?

As a passionate outdoorsman and avid sportsman with a vested interest in land management, I greatly appreciate your willingness to respond to these important questions and hope to better understand the approach the agency takes in these matters. Private property rights are of the utmost importance, and ensuring we equally respect all stakeholders involved will only serve to strengthen the reputation of the USFS, thereby benefiting the greater American public and outdoor community as a whole. Thank you for the important work that you do on behalf of public land users like myself and I look forward to your timely response.

Sincerely,



STEVE DAINES  
United States Senator

CC: The Honorable Sonny Perdue, Secretary of Agriculture  
CC: Leanne Martin, Regional Forester, Region 1


**ENTERPRISE CONTENT MANAGEMENT  
FOLDER COVER SHEET**
**8322800**
**05/30/2017**

**Control Number:** 8322800    **Folder Status:** Active    **Processing Code:** USFS50  
**Folder Owner:** OSEC/NRE/FS/None/MG/FS CCU CM  
**Action Organization:** OSEC/NRE/FS/None/Main Group  
**Date on Letter:** 05/26/2017    **Due Date:** None  
**Received Date:** 05/30/2017    **Interim Date:** None  
**VIP Type:** U.S. Senator  
**Correspondent:** Daines, Steve  
**Referrer:** Daines, Steve  
**Addressee:** Tidwell, Tom  
**Final Signer:**    **Sign Date:** None  
**Subject:**    **Special Attention:**  
**Reference Number:**    **Special Instruction:**  
**Synopsis:**

#	Assignee	Task	Status	Actual User	Assigned Days	Due Date	Date Received	Date Completed	Days Over Due
1	JEFFREY JASPER	Draft Response	Started	JEFFREY JASPER	10	06/13/2017	05/30/2017 02:36:18 PM CDT		-10
2	Correspondence Control Officer	Review Final	Not Started		1	06/14/2017			-11
3	FS FINAL	Final Response	Not Started		1	06/15/2017			-12
4	JEFFREY JASPER	Final Response	Not Started		1	06/16/2017			-13
5	FS SIGNED	Close Folder	Not Started		1	06/19/2017			-14

PETE SESSIONS  
32ND DISTRICT, TEXAS

CHAIRMAN  
COMMITTEE ON RULES

COMMITTEE ON  
FINANCIAL SERVICES  
(ON LEAVE)



2233 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4332  
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FAX: 202.225.5878  
 LAKESIDE SQUARE  
12377 MERIT DRIVE  
SUITE 750  
DALLAS, TEXAS 75251-2224  
TELEPHONE: 972.392.0505  
FAX: 972.392.0615  
sessions.house.gov

## Congress of the United States House of Representatives

June 7, 2017

The Honorable Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1440 Independence Ave, SW  
Washington, D.C. 20250-0001

Dear Secretary Perdue,

I am writing to request the U.S. Forest Service (“Service”) honor Congress’ intent, as expressed in F.L.P.M.A. (43 U.S.C. 1715(a)), and issue a directive precluding the Service from acquiring interests in lands by prescription and disavowing the use of so-called Statements of Interest. Under the Obama Administration, Region 1 went rogue and, without any statutory or rule-making authority, created so-called Statements of Interest in order to circumvent Congressional intent and the Takings Clause of the U.S. Constitution. This has resulted in a distorted relationship between the federal government and its citizenry that, unless reversed, will result in the loss of untold points of public access as private landowners end historic permissive access arrangements because of the fear of loss of valuable property rights.

Failing such a corrective instruction, presumably by the Chief of the Forest, private landowner relations with the Service will deteriorate and the goal of increased public access to the forest will be frustrated. In the face of District Rangers actively encouraging members of the public to trespass and not ask permission to cross private property (as illustrated in the attached Facebook post), the response will be quick and widespread – the end of permissive access. A far better policy, and a political winner in the west, would be to declare increased public access to the Forest as priority one for the Department and to (i) order a top down review of the Forest road closures undertaken in the last twenty years with an eye to re-opening many, and (ii) encourage permissive access across private lands by removing the risk posed by the Wonder Ranch precedent, i.e. that as a reward for having cooperated with the federal government to provide greater public access to public lands a landowner will have to sue the U.S. Government in order to defend his or her property rights. Additional documentation regarding the Wonder Ranch precedent is attached.

Additionally, I request an in-person meeting to discuss the need for such a directive and whether legislative action is needed to achieve this restoration of private property rights. I respectfully would propose June 13-16, 2017 for a meeting and would like to extend an invitation to join such a meeting to my constituent and the owner of Wonder Ranch, Mr. Chris Hudson. Mr. Hudson

unfortunately has extensive, firsthand experience with the war on private property owners conducted by the Obama Administration. I request that your staff notify my Legislative Director, Jennifer Lackey, if you are willing to issue the directive described above, and your availability for a meeting, at [Jennifer.Lackey@mail.house.gov](mailto:Jennifer.Lackey@mail.house.gov) or 202.225.2231.

Please know that I greatly appreciate your willingness to serve our nation as Secretary of Agriculture. Your leadership, expertise, and commitment to freedom are critical to restoring the damage inflicted on private property owners by the previous Administration. I look forward to hearing from you in the days ahead.

Sincerely,



Pete Sessions  
Chairman  
House Committee on Rules

CC: The Honorable Ryan Zinke, Secretary, U.S. Department of the Interior

Enclosures

**From:** [Marten, Leanne - FS](#)  
**To:** [Glossa, Melany I -FS](#); [Erickson, Mary C -FS](#); [Benson, Chad W -FS](#)  
**Subject:** Wonder Ranch and Access -- Secretary  
**Date:** Thursday, June 08, 2017 1:28:25 PM  
**Attachments:** [6.7.17 Sec Perdue Wonder Ranch.pdf](#),  
[image001.png](#),  
[image002.png](#),  
[image003.png](#),  
[image004.png](#)

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Hi everyone

Please see the attached letter. We have been asked to pull together some background information for the Chief's office to share with the Department. Dave Schmid will be point on this and reaching out.

You will notice it is on Wonder Ranch--however, Mary and Chad the access email got pulled in as well and therefore it is more than Wonder Ranch. This is what we wanted to visit with you on this afternoon.

Melany—stay tuned. We will let you know if we need anything, but will definitely keep you in the know.

Thanks!



**Leanne Marten**

**Regional Forester**

**Forest Service**

**Northern Region**

**p: 406-329-3315**

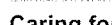
**c: 406-317-3097**

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**26 Fort Missoula Road**

**Missoula, MT 59804**

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**Caring for the land and serving people**

**From:** [Hagengruber, John -FS](#)  
**To:** [Erickson, Mary C -FS](#); [Benson, Chad W -FS](#); [Marten, Leanne - FS](#); [Smith, Thomas D -FS](#)  
**Subject:** FW: Letter to Chief re: Crazies  
**Date:** Thursday, June 08, 2017 4:40:26 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Thought I would share some feedback from Ryan Weiss, DNRC's access specialist, who just called me to say "thanks" for receiving a copy of the Senator's letter.

Ryan said he stayed at the Crazies workshop/meeting through to the end. He told me he thought the Custer-Gallatin NF folks did a great job and that the stockgrowers / landowners expressed encouragement over how the meeting went, with apparently some voicing that they were in favor of moving forward with doing some sort of land exchange, whereas others were wanting to move forward but in smaller increments (test projects that could potentially become permanent if successful, etc).

  
**John Hagengruber**  
**Montana Capital City Coordinator (State Liaison)**  
**Forest Service Northern Region**  
p: 406-444-4490  
c: 406-439-0225 (preferred contact number)  
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[jhagengruber@fs.fed.us](mailto:jhagengruber@fs.fed.us) / [jhagengruber@mt.gov](mailto:jhagengruber@mt.gov)  
Officed at Montana DNRC HQ bldg - 1538 11th Ave. / P.O. Box 201601  
Helena, MT 59620  
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Caring for the land and serving people

**From:** Weiss, Ryan [mailto:[RyanWeiss@mt.gov](mailto:RyanWeiss@mt.gov)]

**Sent:** Thursday, June 08, 2017 3:26 PM

**To:** Hagengruber, John -FS ; Holmes, Patrick

**Subject:** RE: Letter to Chief re: Crazies

One of Daines' staffers was at the last Crazy Mountain access meeting this week in Big Timber. The meeting went well, with Mary and Chad presenting to the group a USFS map with the different access locations, opportunities and historic transportation uses to the forest. The landowners were very receptive.

Ryan

**From:** Hagengruber, John -FS [mailto:[jhagengruber@fs.fed.us](mailto:jhagengruber@fs.fed.us)]

**Sent:** Thursday, June 08, 2017 3:14 PM

**To:** Holmes, Patrick

**Cc:** Weiss, Ryan

**Subject:** RE: Letter to Chief re: Crazies

Sure thing, Patrick. We will make sure you both get a copy of what is sent when it goes out...

  
**John Hagengruber**  
**Montana Capital City Coordinator (State Liaison)**  
**Forest Service Northern Region**  
p: 406-444-4490  
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Officed at Montana DNRC HQ bldg - 1538 11th Ave. / P.O. Box 201601

Helena, MT 59620  
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Caring for the land and serving people

**From:** Holmes, Patrick [<mailto:Patrick.Holmes@mt.gov>]

**Sent:** Thursday, June 08, 2017 3:09 PM

**To:** Hagengruber, John -FS <[jhagengruber@fs.fed.us](mailto:jhagengruber@fs.fed.us)>

**Cc:** Weiss, Ryan <[RyanWeiss@mt.gov](mailto:RyanWeiss@mt.gov)>

**Subject:** RE: Letter to Chief re: Crazies

Thanks John. Leanne mentioned that you all were working on your reply—once available, it would be helpful if you can share so we're tracking with how you all are responding. Thanks again.

**From:** Hagengruber, John -FS [<mailto:jhagengruber@fs.fed.us>]

**Sent:** Thursday, June 08, 2017 3:06 PM

**To:** Holmes, Patrick <[Patrick.Holmes@mt.gov](mailto:Patrick.Holmes@mt.gov)>

**Cc:** Weiss, Ryan <[RyanWeiss@mt.gov](mailto:RyanWeiss@mt.gov)>

**Subject:** Letter to Chief re: Crazies

Sharing...

 **John Hagengruber**  
Montana Capital City Coordinator (State Liaison)

Forest Service Northern Region

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Caring for the land and serving people

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**From:** [Harrington, Angela - FS](#)  
**To:** [Schmid, David -FS](#)  
**Cc:** [Smith, Thomas D -FS](#); [Hockelberg, Cindy -FS](#); [Alexander, Joseph G -FS](#); [Joy, Janne M -FS](#); [Erickson, Mary C -FS](#); [Benson, Chad W -FS](#); [Daley, Marna -FS](#); [Everett, Christine - OGC](#); [MILLER, JODY - OGC](#)  
**Subject:** Access in the Crazies  
**Date:** Tuesday, June 13, 2017 1:10:32 PM  
**Attachments:** [Briefing Paper CrazyMountainAccessJune2017.docx](#)  
[201706121134.pdf](#)  
[image002.png](#)  
[image004.png](#)  
[image006.png](#)  
[image008.png](#)  
**Importance:** High

Dave,

Here is the BP requested by the WO in response to the “open letter to Sec. Purdue and Sen. Daines” on this issue (which is attached as a pdf). It is my assumption that the WO will respond to the letter using this information and will contact us if they need additional info—would be good to clarify.

Please send to:

Ron Mulach, OGC

Greg Smith

Mona Koerner

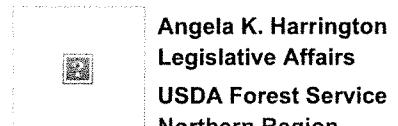
Kevin Heikkila

Nadine Gaddy

Nancy Parachini

FYI also—Kathryn just informed me that they are working to schedule the meeting requested by Rep Sessions (TX) with Secretary Purdue, and it could be scheduled for as early as next week. She will keep me posted. The Congressman has asked that the owner of Wonder Ranch, Mr. Chris Hudson, be included in the meeting. As you know, Wonder Ranch is still in ongoing litigation with the U.S.A. Due to that fact and the details of the Congressman’s letter, legal guidance seems indicated.

Let me know if you have questions. Thanks, Angela



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Caring for the land and serving people

**From:** [Benson, Chad W -FS](#)  
**To:** [Kitson, Carol -FS](#); [Abbott, Sandra -FS](#)  
**Cc:** [Erickson, Mary C -FS](#)  
**Subject:** Crazy Mountain Access correspondence  
**Date:** Friday, June 16, 2017 11:03:06 AM  
**Attachments:** [6.7.17 Sec Perdue Wonder Ranch.pdf](#)  
[Briefing Paper CrazyMountainAccessJune2017.docx](#)  
[Daines.pdf](#)  
[Open Letter.pdf](#)  
[image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

Here are the documents that we mentioned in our call. Mary will provide some of the earlier correspondence, as it relates to the trail work day and subsequent DOJ discussions.



**Chad W. Benson**  
**Deputy Forest Supervisor**  
**Forest Service**  
**Custer Gallatin National Forest**

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Bozeman, MT 59715  
[www.fs.fed.us](http://www.fs.fed.us)



**Caring for the land and serving people**

**From:** [Merwin, Spenser \(Daines\)](#)  
**To:** [Erickson, Mary C -FS](#)  
**Subject:** Public Access Advocates  
**Date:** Wednesday, June 28, 2017 9:25:47 AM

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[http://billingsgazette.com/opinion/columnists/guest-opinion-crazy-mountain-ranger-s-transfer-bodes-ill-for/article\\_42b4449d-5db3-550e-ba60-e20a7e71ec6a.html](http://billingsgazette.com/opinion/columnists/guest-opinion-crazy-mountain-ranger-s-transfer-bodes-ill-for/article_42b4449d-5db3-550e-ba60-e20a7e71ec6a.html)

Hi Mary – I know this is a guest editorial, but I’m curious if there is a perception even from Alex about what our involvement in the Crazy access has been? As we discussed after the FS made the decision, our interest in the access dispute is simply the procedures and policy used to acquire access. Would be interested to know if you’re getting more questions regarding our involvement and curious if there is a way we’d be able to provide insight on what we are doing and what we are not doing.

Spenser Merwin

**Director of Coalitions and Outreach**

Senator Steve Daines (R-MT)  
218 E Front St, Suite 103  
Missoula, MT 59802  
*Email: [Spenser.Merwin@daines.senate.gov](mailto:Spenser.Merwin@daines.senate.gov)*  
O: (406) 549-8198  
C: (406) 540-3385



United States  
Department of  
Agriculture

Forest  
Service

Washington Office

201 14th Street, SW  
Washington, DC 20024

File Code: 1510; 5400 (8322800)  
Date: JUL 14 2017

The Honorable Steve Daines  
United States Senate  
320 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Daines:

Thank you for your letter of May 26, 2017, requesting information about the U.S. Department of Agriculture's Forest Service policy for disputed access points near the Crazy Mountains in Custer Gallatin National Forest. We apologize for the delayed response.

We respect the rights of private property owners and are committed to being a good neighbor while maintaining public access to National Forest System lands. We remain dedicated to working closely with private landowners, States and counties to resolve disputed access across private lands.

Following are responses to specific questions you raised regarding the Forest Service's approach to access issues:

- 1) *"What are the statutory and regulatory guidelines agency personnel must follow when attempting to resolve private property disputes with local landowners? What local discretion is permitted?"*

Applicable statutes and regulations can change depending on the history and nature of the dispute. The Forest Service has the ability to resolve access disputes through various landownership adjustments. Depending on specific circumstances, we have authorities to pursue an array of alternatives including the purchase or exchange of land or easements. Often a mutually beneficial access solution is accomplished through use of reciprocal easements when the landowner needs a granted authority to cross lands of the United States. Our common practice is to explore all possible solutions, using the courts as a last resort to settle disputes.

Locally, on a Ranger District or Forest level, we expect our employees will initiate discussions to determine the best course to resolve a dispute. Additional review and approval from senior Agency personnel may be required depending on the nature of the proposed resolution. The Regional Forester, Office of General Counsel, and Department of Justice would become involved before any decision is made to seek a court determination.

- 2) *"If an access point is disputed, what are USFS management guidelines for continued engagement with landowners and the public?"*

Management guidelines may differ depending upon the history and nature of a particular access dispute. In resolving disputed access across private lands, Forest Supervisors must generally make a diligent effort to resolve access issues directly with landowners, considering all possible methods for resolution (e.g., trail reroutes, purchase, reciprocal easements, land exchanges, etc.). The Agency strives to keep interested public users apprized with signage and correspondence. Depending on the nature of the resolution (i.e.,



The Honorable Steve Daines

2

whether it constitutes “major federal action”), National Environmental Policy Act analysis and public notice and comment may be required.

- 3) *“Is the attached message a proper reflection of USFS policy concerning unresolved access points with private landowners?”*

The message referenced was intended to convey to Forest Service employees the differences between prescriptive and permissive use where no recorded document exists. It was predicated upon a belief the public possessed a legal right of entry on the specified routes.

The Forest Supervisor is meeting with private landowners in the area—in two separate efforts—to seek mutually agreeable solutions for the full range of public and private interests. First, the Forest Supervisor, U.S. Department of Justice attorneys, Hailstone Ranch landowners, and their attorney have been meeting and discussing the disputed East Trunk Trail in an attempt to seek a mutually agreeable resolution without litigation. Several options were discussed at a meeting on April 28, 2017, including potential land exchange, purchase, reciprocal right-of-way easements, and possible re-routing the East Trunk Trail. We believe this process holds promise and intend to hold further meetings.

Second, the Forest Supervisor is participating in a discussion group facilitated by a neutral party—which includes landowners, Crazy Mountain Stockgrowers, local pro-access interests, Rocky Mountain Elk Foundation, and the State of Montana’s new access coordinator—to explore ways to address longstanding access issues in a manner that constructively addresses all interests. This group, or members of the group, have met three times. The next planned meeting is scheduled for July 18, 2017, in Big Timber, Montana. Interested parties are exploring a variety of options in these meetings and I am confident they will result in productive outcomes for all involved.

- 4) *“What affect, and to what extent, does state law have on management guidelines related to private property disputes?”*

The applicable law and/or guideline may differ depending on the facts of any particular dispute and the phase of such dispute (e.g., negotiation versus litigation). Also, private property disputes can cover a broad swath of Agency policies and management guidelines, some of which are not necessarily based on State law. The Federal Quiet Title Act incorporates State law to some extent, and the Agency is mindful of those laws in formulating policy.

Thank you for writing and your interest in the management of your National Forests. If you need further assistance, please contact Leanne Marten, Regional Forester for the Northern Region, at (406) 329-3315 or [lmarten@fs.fed.us](mailto:lmarten@fs.fed.us).

Sincerely,



THOMAS L. TIDWELL  
Chief

**From:** Smith, Thomas D -FS  
**To:** Erickson, Mary C -FS  
**Subject:** RE: Letter  
**Date:** Thursday, July 20, 2017 8:19:37 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

Thanks Mary. Safe Travels.



**From:** Erickson, Mary C -FS  
**Sent:** Thursday, July 20, 2017 8:18 AM  
**To:** Smith, Thomas D -FS <[thomasdsmith@fs.fed.us](mailto:thomasdsmith@fs.fed.us)>  
**Cc:** Marten, Leanne - FS <[lmarten@fs.fed.us](mailto:lmarten@fs.fed.us)>; Schmid, David -FS <[dschmid@fs.fed.us](mailto:dschmid@fs.fed.us)>; Darnell, Jane D -FS <[jdarnell@fs.fed.us](mailto:jdarnell@fs.fed.us)>; Benson, Chad W -FS <[cwbenson@fs.fed.us](mailto:cwbenson@fs.fed.us)>; Daley, Marna -FS <[mdaley@fs.fed.us](mailto:mdaley@fs.fed.us)>  
**Subject:** Re: Letter

Good morning, thanks for sharing.

I'm just having a flight to North Carolina, returning on Saturday.

Only a couple quick comments.

I hadn't seen the Chief's final response to Senator Daines. I was actually a bit surprised that we went into as much detail about our ongoing conversations between DOJ and the landowners. That process is still in confidential discussions and this shared a lot of information that we have been sharing publicly. (I recognize it's too late to change that now but thought I would share).

So, my comments on the letter to Brice:

Correct spelling of "Daine's" to "Daines"

The phrase "addressing personnel issues" has a negative tone as opposed to personnel matters.

Other thing that strikes me is the repeated emphasis on "respecting private property rights" versus "balancing public access interests". We definitely need the language on respect for private property. The way this is worded will be read as an underlying message that we are not interested in tackling prescriptive rights case through any means other than mutual agreement with landowners. Recognize that would always be our intent but don't think with Wonder Ranch on appeal, we'd want to imply that we never settle disputes through court process.

Shutting down now since the flight is taking off...

Thanks, Mary

Sent from my iPad

On Jul 20, 2017, at 6:45 AM, Smith, Thomas D -FS <[thomasdsmith@fs.fed.us](mailto:thomasdsmith@fs.fed.us)> wrote:

Here's our proposed response to Brice Jones, who wrote a letter to the Secretary condemning him over Alex's detail. USDA asked us to prepare a response for Leanne's signature.

David



Caring for the land and serving people

**From:** Abbott, Sandra -FS  
**Sent:** Wednesday, July 19, 2017 4:35 PM  
**To:** Smith, Thomas D -FS <[thomasdsmith@fs.fed.us](mailto:thomasdsmith@fs.fed.us)>; Kittson, Carol -FS <[ckittson@fs.fed.us](mailto:ckittson@fs.fed.us)>  
**Subject:** FW: Letter  
**Importance:** High

Hi David. We got the go ahead. This letter looks good from ER/HR standpoint – included a review from the HRM FOIA group. Thanks. Sandy

 **Sandra Abbott**  
**Employee Relations Supervisor**  
**Forest Service**  
**HRM, Employee Relations, R1/R10**

**p: 406-677-3932**  
**c: 406-370-6489**  
**f: 866-223-7899**  
**f: 406-677-3902**  
**[sabbott@fs.fed.us](mailto:sabbott@fs.fed.us)**

3583 Highway 83  
Seeley Lake, MT 59868  
[www.fs.fed.us](http://www.fs.fed.us)

 **Caring for the land and serving people**

**From:** Nieto, Erica -FS  
**Sent:** Wednesday, July 19, 2017 2:35 PM  
**To:** Lopez, Sandra -FS <[slopez@fs.fed.us](mailto:slopez@fs.fed.us)>  
**Cc:** Abbott, Sandra -FS <[sabbott@fs.fed.us](mailto:sabbott@fs.fed.us)>  
**Subject:** FW: Letter  
**Importance:** High

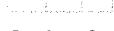
Hi Sandra,

I know we talked about this issue and I told you I would provide you a copy of the draft that would answer the inquiry you had sent us and was reassigned to R1. Our ER team worked with R1 PAO and R1 Leadership to come up with the draft attached. R1 Leadership would like to issue as soon as they can so if you are able to review and provide feedback today, that would be ok. I have reviewed and am ok with the response but wanted to give you an opportunity as well before we clear it. I don't want to hold them up so we will release tomorrow morning. Thank you!

 **Erica Nieto**  
**Branch Chief, Employee Relations**

**Forest Service**  
**Human Resources Management**  
**p: 505-563-9462**  
**c: 505-414-5072**  
**[enieto@fs.fed.us](mailto:enieto@fs.fed.us)**

3900 Mashead NE  
Albuquerque, NM 87109  
[www.fs.fed.us](http://www.fs.fed.us)

 **Caring for the land and serving people**

**From:** Abbott, Sandra -FS  
**Sent:** Wednesday, July 19, 2017 2:07 PM  
**To:** Nieto, Erica -FS <[enieto@fs.fed.us](mailto:enieto@fs.fed.us)>; Kittson, Carol -FS <[ckittson@fs.fed.us](mailto:ckittson@fs.fed.us)>  
**Subject:** FW: Letter

Hi Erica. Here is the draft letter from our PAO re: the Sienkiewicz case. You said you wanted to take a look at it before it goes out. I know you were reviewing a case or two so hopefully you can get your eyes on this and let us know if you are ok with this response. Thanks. Sandy

 **Sandra Abbott**  
**Employee Relations Supervisor**  
**Forest Service**  
**HRM, Employee Relations, R1/R10**  
**p: 406-677-3932**  
**c: 406-370-6489**  
**f: 866-223-7899**  
**f: 406-677-3902**  
**[sabbott@fs.fed.us](mailto:sabbott@fs.fed.us)**  
3583 Highway 83  
Seeley Lake, MT 59868  
[www.fs.fed.us](http://www.fs.fed.us)  
  
**Caring for the land and serving people**

**From:** Kittson, Carol -FS  
**Sent:** Tuesday, July 18, 2017 8:31 AM  
**To:** Abbott, Sandra -FS <[sabbott@fs.fed.us](mailto:sabbott@fs.fed.us)>  
**Subject:** FW: Letter

Here's the draft letter in response to the letter we received last week. I haven't read it and the letter it is responding to yet but wanted you to have it right away.

**Carol Kittson**  
**Employee Relations Specialist**  
**Forest Service**

Human Resource Management  
Employee Relations - Regions 1 & 10

p: 406-459-5504  
f: 1-866-223-7899  
[ckittson@fs.fed.us](mailto:ckittson@fs.fed.us)

2880 Skyway Dr.  
Helena, MT 59602  
[www.fs.fed.us](http://www.fs.fed.us)

Caring for the land and serving people

**From:** Smith, Thomas D -FS  
**Sent:** Monday, July 17, 2017 2:28 PM  
**To:** Kittson, Carol -FS <[ckittson@fs.fed.us](mailto:ckittson@fs.fed.us)>  
**Subject:** Letter

Hi Carol,

Here's an initial stab at the letter. I'm also attaching the Chief's response to Senator Daines that I reference in the letter. Thoughts? I haven't shared it with Leanne yet.

Thanks!!

David

T. David Smith  
Director, Public & Governmental Relations

Forest Service  
Northern Region

p: 406-329-3472  
c: 406-214-5097  
[thomasdsmith@fs.fed.us](mailto:thomasdsmith@fs.fed.us)

26 Fort Missoula Rd  
Missoula, MT 59804  
[www.fs.fed.us](http://www.fs.fed.us)

Caring for the land and serving people

<Brice Jones Response\_Access.docx>  
<CO 17-704 Senator Daines Letter2017-07-14-124630.pdf>

JON TESTER  
MONTANA

SENATOR TESTER  
DEPARTMENT OF DEFENSE  
DEPARTMENT OF ENERGY  
DEPARTMENT OF HOMELAND SECURITY  
DEPARTMENT OF HUMAN SERVICES  
DEPARTMENT OF INTELLIGENCE  
DEPARTMENT OF JUSTICE  
DEPARTMENT OF LABOR  
DEPARTMENT OF STATE  
DEPARTMENT OF THE TREASURY  
DEPARTMENT OF VETERANS AFFAIRS  
DEPARTMENT OF WILDERNESS

DEPARTMENT OF TRANSPORTATION  
DEPARTMENT OF THE ARMY  
DEPARTMENT OF THE COAST GUARD  
DEPARTMENT OF THE NAVY  
DEPARTMENT OF THE AIR FORCE  
DEPARTMENT OF HOMELAND SECURITY  
DEPARTMENT OF HUMAN SERVICES  
DEPARTMENT OF INTELLIGENCE  
DEPARTMENT OF JUSTICE  
DEPARTMENT OF LABOR  
DEPARTMENT OF STATE  
DEPARTMENT OF THE TREASURY  
DEPARTMENT OF VETERANS AFFAIRS  
DEPARTMENT OF WILDERNESS

# United States Senate

July 25, 2017

The Honorable Sonny Perdue, Secretary  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Washington DC, 20250

The Honorable Thomas L. Tidwell, Chief  
United States Forest Service  
1400 Independence Avenue, SW  
Washington DC, 20250

Dear Secretary Perdue & Chief Tidwell:

I am writing today regarding public access in the Crazy Mountains and the use of prescriptive easements. This issue has garnered significant attention and reportedly led to the reassignment of local U.S. Forest Service staff. I am deeply troubled that public access to more than 8,000 acres of public land is now even harder to access for Montanans. I respectfully urge you to meet with impacted Montanans, from sportsmen and women to local landowners, to find a responsible solution that does not further undermine our outdoor economy or the public's faith in the Trump's Administration commitment to public access.

Access disputes in the Crazy Mountains are unfortunately not new. The U.S. Forest Service historically has taken the position these routes remain open to the public. This scenario plays out across the West, often when private land ownership changes. Finding a clear public access solution is often difficult in Montana, which is one of the reasons why I continue to advocate for a fully funded Land and Water Conservation Fund to secure amicable solutions. While these situations are rarely easily resolved, Montanans are no strangers to sitting down at a table to work things out.

The current situation does not serve Montanans well. The public is now even more hard-pressed to gain access to more than 8,000 acres of National Forest land that belongs to them. Local landowners will deal with a growing overpopulation of elk that will inevitably create land management challenges for everyone involved. The U.S. Forest Service needs to step up and bring folks together to resolve this situation as soon as possible. This should be done in a way that acknowledges the uniqueness of each access point and individual landowners.

I am sensitive to weighing in on any Agency's handling of personnel matters, particularly when they are reportedly ongoing. Yet I am troubled by reports that the local district ranger found himself reassigned after intervention from individuals far removed from the situation. I encourage you to proceed in a fair and transparent manner on this front.

MONTANA  
1400 5TH ST. STE. 200

BUTTE  
1400 7TH ST. STE. 17

GARFIELD  
1400 5TH ST. STE. 100

MISSOURI RIVER  
1400 25TH ST. STE. 100

MISSIONS  
1400 4TH ST. STE. 100

MONTANA  
1400 26TH ST. STE. 100

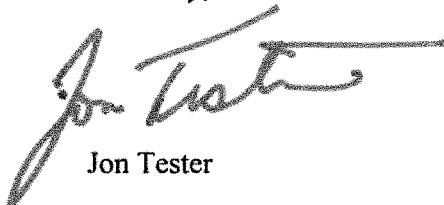
BILLINGS  
1400 25TH ST. STE. 100

MISSOURI RIVER  
1400 7TH ST. STE. 100

I\_East\_000641

Montanans expect those who represent them to do so in a transparent way on behalf of the greater good to the public. I respectfully urge both of you to engage the public in a meaningful way to ensure this issue is resolved.

Sincerely,



A handwritten signature in black ink, appearing to read "Jon Tester". A horizontal line is drawn through the signature.

Jon Tester

**Darelius, Jason - FS**

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**From:** Lorents Grosfield <(b) (6)>  
**Sent:** Thursday, June 15, 2017 1:28 PM  
**To:** Erickson, Mary C -FS; colleen@coylefanninglaw.com; wsdonald@cayuselivestock.com; znccattle@gmail.com; Lund@Lund-Law.com; page@dr-lawfirm.com  
**Subject:** RE: Open Letter

Mary,

You expressed some discomfort and displeasure with the fact that we put together and distributed an "Open Letter" to Sen. Daines and Secy. Perdue regarding Forest Service public access issues. While I can understand it made you feel somewhat uncomfortable, I have no regrets about using every angle we can to try to get the FS to act professionally and respectfully in regards to the private property rights involved in this issue. The first part of the Open Letter was really about Alex and what we see as his unprofessional conduct, about which we have heard nothing relative to corrective action taken by the FS, nor really any form of an apology from anyone in the FS. The second part was about a variety of legitimate questions that we have about FS policy, and whether the policy is soundly based on statutory authority.

Mary, I really hope we can continue meeting, as I'm sensing that we really might get somewhere in resolving acceptable public access to much of the public land in the Crazy Mountains. We really appreciate you and Chad bringing out the map and having an open discussion about it. And we appreciate the FS being willing to engage at a high level on this issue. We also appreciate the access folks willing to engage in a cordial manner. We are all learning, and hopefully we can move forward. We realize however that in the end, if we find that we can't mutually move forward, that the FS fallback position is likely to be going back to aggressively proceeding with something of an "Alex-like" approach (at least we really have been given no reason to believe otherwise, and thus our perceived need to proceed on several fronts-- I hope that is understandable, especially in light of statements by several hunters and other access advocates that they intend to start using some of the "unperfected easements" this summer and fall).

I think all sides (in our meetings) understand that we are dealing with touchy subjects, and I sense that we all are trying to be cordial and respectful of each other's continuing willingness to participate. In that regard, I think we all (successfully so far) try to avoid dropping any "bombs" or pointing any accusatory fingers. On the other hand, in the meantime I'm sure that we all keep in touch with and seek guidance from our own constituencies (whether that be landowners, access advocates, or Forest Service access personnel), as well as seek opportunities to improve our understanding of and response to this issue.

Again, thanks largely to you and Chad, I think we made great progress at our last meeting, and I look forward to more on July 18th.

Respectfully,  
Lorents

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**From:** Erickson, Mary C -FS [mailto:[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)]  
**Sent:** Wednesday, June 14, 2017 9:12 AM  
**To:** colleen@coylefanninglaw.com; wsdonald@cayuselivestock.com; znccattle@gmail.com; Lund@Lund-Law.com;

page@dr-lawfirm.com; (b) (6)

**Subject:** Open Letter

Good morning. Yesterday, on a call with my Regional Office, I first heard about this "open letter" sent in late May to Senator Daines and Secretary Perdue.

I fully acknowledge the right of landowners to bring this forward. However, I am confused by the intent. I assumed since we are working in good faith to look for common interest solutions, a letter like this would have been shared with me and others who have been invited to the table.

This seems to be a parallel effort that seeks a different path toward resolution.

I'm struggling after seeing this about how I invest my time and energy. What do you see as a path forward that builds trust? Did you plan to share this with the others who have been participating who represent those different interests?

Thanks, Mary

Sent from my iPad

Begin forwarded message:

**From:** "Hockelberg, Cindy -FS" <[chockelberg@fs.fed.us](mailto:chockelberg@fs.fed.us)>  
**Date:** June 13, 2017 at 10:09:49 AM MDT  
**To:** "Erickson, Mary C -FS" <[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)>  
**Subject: RE: Working Group Map**

Hi Mary the map did not come through but since you are revising that is a moot point anyway. Thanks again for the time and update this morning very helpful with our responses. If you need information from here do not hesitate to let me know.

I have attached a copy of the "open letter" for your information.

**From:** Erickson, Mary C -FS  
**Sent:** Tuesday, June 13, 2017 08:47  
**To:** Alexander, Joseph G -FS <[jgalexander@fs.fed.us](mailto:jgalexander@fs.fed.us)>; Barclay, Eric -FS <[ebarclay@fs.fed.us](mailto:ebarclay@fs.fed.us)>; Hockelberg, Cindy -FS <[chockelberg@fs.fed.us](mailto:chockelberg@fs.fed.us)>  
**Subject:** Fwd: Working Group Map

Sent from my iPad

Begin forwarded message:

**From:** "Rupert, Susan -FS" <[srupert@fs.fed.us](mailto:srupert@fs.fed.us)>  
**To:** "Everett, Christine - OGC" <[CHRISTINE.EVERETT@OGC.USDA.GOV](mailto:CHRISTINE.EVERETT@OGC.USDA.GOV)>, "[mark.smith3@usdoj.gov](mailto:mark.smith3@usdoj.gov)" <[mark.smith3@usdoj.gov](mailto:mark.smith3@usdoj.gov)>  
**Cc:** "Erickson, Mary C -FS" <[mcerickson@fs.fed.us](mailto:mcerickson@fs.fed.us)>  
**Subject: Working Group Map**